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10/608,729	06/27/2003	Reinier Bezuidenhout	42933/264137	6933
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ALSTON & BIRD LLP			GUYTON, PHILIP A	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/608,729

Applicant(s)

BEZUIDENHOUT, REINIER

Examiner

Philip Guyton

Art Unit

2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 15-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 12 and 15-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Parent claim 12 recites an email gateway diagnostic tool comprising only a script. A script is simply a computer program or listing, and the claim does not contain a defining structural and functional interrelationship between the script and any computer components which would allow the functionality to be realized. Thus, the subject matter is deemed non-statutory since it does not qualify as a process, machine, manufacture, or composition of matter as required by 35 U.S.C. 101.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-12, and 18-21 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,789,215 to Rupp et al. (hereinafter Rupp).

As per claim 1, Rupp discloses a computer-implemented method of troubleshooting email gateway functionality with at least two modes of operation comprising the steps of:

determining at least one setting of an email gateway (column 9, lines 10-12 - the computer may be an email server as described in column 4, lines 31-40);

accepting external information entered by an input device and related to troubleshooting of the functionality of the email gateway (column 9, lines 7-15);

performing at least one troubleshooting routine in at least one of said modes to evaluate the email gateway functionality (column 9, lines 21-33), wherein said at least one troubleshooting routine collects and tests at least one setting of said email gateway, and wherein said at least one troubleshooting routine includes separate collection and testing of at least one setting depending upon a reported functionality or lack thereof of said email gateway (column 9, lines 33-37 - process monitoring manager verifies process results depending on distribution method);

checking at least one setting of said email gateway based upon said external information (column 9, lines 33-37); and

displaying information resulting from said checking of at least one setting (column 9, lines 33-37 - information can also be displayed directly as disclosed in column 4, lines 63-65).

As per claim 2, Rupp discloses wherein said external information is related to at least one of receiving mail, delivering mail, the direction of mail (column 4, lines 31-40), a server address, and a domain address (column 3, lines 58-62).

As per claim 3, Rupp discloses testing at least one function of said email gateway (column 4, lines 31-40).

As per claim 4, Rupp discloses determining at least one setting of a computer network interoperably connected to said email gateway (column 4, lines 31-40); and checking at least one setting of said computer network based upon said external information or information resulting from said check of at least one email gateway setting (column 9, lines 33-37).

As per claim 5, Rupp discloses a computer program product comprising a computer-useable medium having a computer-readable code embodied therein with at least two modes of operation for performing a method of troubleshooting the functionality of an email gateway by a user computer, said computer readable code comprising:

first computer-readable code configured to cause said user computer to effect determining at least one setting of said email gateway column 9, lines 10-12 - the computer may be an email server as described in column 4, lines 31-40);

second computer-readable code configured to cause said user computer to effect accepting external information entered by an input device and related to troubleshooting of the functionality of the email gateway (column 9, lines 7-15);

third computer-readable code configured to cause said user computer to effect performing at least one troubleshooting routine in at least one of said modes to evaluate the email gateway functionality (column 9, lines 21-33), wherein said at least one troubleshooting routine of said third computer-readable code is configured to collect and test at least one setting of said email gateway, and wherein said at least one troubleshooting routine of said third computer-readable code is configured to include separate collection and testing of at least one setting depending upon a reported functionality or lack thereof of said email gateway (column 9, lines 33-37 – process monitoring manager verifies process results depending on distribution method);

fourth computer-readable code configured to cause said user computer to effect checking at least one setting of said email gateway based upon said external information (column 9, lines 33-37); and

fifth computer-readable code configured to cause said user computer to effect displaying at least one resulting information associated with said checking of at least one setting (column 9, lines 33-37).

As per claim 6, Rupp discloses wherein said second computer readable code is configured to cause said user computer to effect accepting external information related to at least one of receiving mail, delivering mail, the direction of mail (column 4, lines 31-40), a server address, and a domain address (column 3, lines 58-62).

As per claim 7, Rupp discloses sixth computer-readable code configured to cause said user computer to effect testing at least one function of said email gateway (column 4, lines 31-40); and seventh computer-readable code configured to cause said

user computer to effect displaying at least one resulting information associated with said testing of at least one function of said email gateway (column 4, lines 58-65).

As per claim 8, Rupp discloses eighth computer-readable code configured to cause said user computer to effect determining at least one setting of a computer network interoperably connected to said email gateway (column 4, lines 31-40); and ninth computer-readable code configured to cause said user computer to effect checking at least one setting of said computer network based upon said external information or resulting information associated with said check of at least one setting (column 9, lines 33-37).

As per claim 9, Rupp discloses a computer system used to troubleshoot email gateway functionality comprising:

- a processor, operative to determine, accept, check, and display data (column 5, lines 11-12);

- a memory for storing data coupled to said processor (column 5, lines 12-13); a display device coupled to said processor for displaying data (column 4, lines 63-65);

- an input device coupled to said processor for entering external data and related to troubleshooting of the functionality of the email gateway (column 9, lines 7-15);

- a computer-readable script with at least two modes of operation executable by said processor, the script capable of determining at least one setting of an email gateway (column 9, lines 10-12 - the computer may be an email server as described in column 4, lines 31-40); accepting external data (column 9, lines 12-15); performing at least one troubleshooting routine in at least one of said modes to evaluate the email

Art Unit: 2113

gateway functionality (column 9, lines 21-33), wherein said at least one troubleshooting routine of said computer-readable script is capable of collecting and testing at least one setting of said email gateway, and wherein said at least one troubleshooting routine of said third computer-readable script is capable of including separate collection and testing of at least one setting depending upon a reported functionality or lack thereof of said email gateway (column 9, lines 33-37 – process monitoring manager verifies process results depending on distribution method); checking at least one email gateway setting based upon said external data (column 9, lines 33-37); and displaying information resulting from said check of at least one email gateway setting (column 9, lines 33-37).

As per claim 10, Rupp discloses wherein said computer-readable script is further capable of testing at least one function of said email gateway (column 4, lines 31-40).

As per claim 11, Rupp discloses wherein said computer-readable script is further capable of determining at least one setting of a computer network interoperably connected to said email gateway (column 4, lines 31-40); and checking at least one setting of said computer network based upon said external data or said information resulting from said check of at least one email gateway setting (column 9, lines 33-37).

As per claim 12, Rupp discloses an email gateway diagnostic tool for a computer system; the email gateway diagnostic tool comprising:

a script with at least two modes of operation capable of interacting with a computer system and a computer network (column 3, lines 63-64), wherein said script includes routines in said modes and selects at least one routine in at least one of said



Art Unit: 2113

modes to collect and test the configuration of an email gateway of said computer system and said computer network (column 4, lines 31-40), wherein said routines collect and test the configuration of said computer system and said computer network responsible for receiving and delivering email (column 7, line 17-column 8, line 3), and wherein said routines include separate collection and testing of at least one of the configurations depending upon a reported functionality or lack thereof of the email gateway (column 9, lines 33-37 – process monitoring manager verifies process results depending on distribution method).

As per claim 18, Rupp discloses wherein said script queries said computer system and said computer network for information to test the configuration of said computer system and said computer network (column 9, lines 33-37).

As per claim 19, Rupp discloses wherein said computer network is interoperably connected to a mail transfer agent (column 3, lines 45-50 - wherein one of the computers may be a mail server as described in column 4, lines 31-40).

As per claim 20, Rupp discloses wherein said script is written to collect and test the configuration of said mail transport agent (column 3, lines 45-50 - wherein one of the computers may be a mail server as described in column 4, lines 31-40, and wherein the mail server is the mail transport agent).

As per claim 21, Rupp discloses wherein said script provides feedback or possible solutions to problems based upon testing said configuration of said mail transport agent (column 8, lines 40-51).

***Allowable Subject Matter***

4. Claims 15-17 would be allowable if rewritten to overcome the rejection under 35 U.S.C. 101, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Guyton whose telephone number is (571) 272-3807. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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ROBERT W. BENSOULIEL  
SENIOR PATENT EXAMINER  
TECHNICAL CENTER 2100